

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**Case No. 8:03-CR-77-T-30TBM**

**HATEM NAJI FARIZ**

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**PROPOSED JURY INSTRUCTION AS TO CONTINUING OFFENSES**

Defendant, Hatem Naji Fariz, by and through undersigned counsel, hereby respectfully submits a proposed jury instruction to address continuing offenses. The following language is proposed as a template for each occurrence in the jury instructions where effective dates are an issue. The language may therefore need to be amended to address the specific counts, as noted below.

**Continuing Conspiracies (Counts 2, 3, and 4)**

The offense of conspiracy to [describe offense], in violation of [statute], did not become a crime until [date], when the [statute was enacted] [designation was made]. Therefore, prior to that date, such an agreement or conduct was not illegal, proscribed, or prohibited, under [statute].

If, however, you find that the Defendant entered into an agreement prior to [date] that would constitute the offense after [date], you can only find the Defendant guilty of this offense if you unanimously determine, beyond a reasonable doubt, that:

- First: The Defendant continued to engage in that agreement after [date], and
- Second: An overt act was knowingly committed after [date] to further the purposes of the conspiracy.

**RICO Racketeering Activity (Count One)**

The offense of [describe offense] did not become a RICO racketeering activity until [date]. Therefore, prior to that date, such an agreement or conduct was not illegal, proscribed, or prohibited as a RICO racketeering activity.

If, however, you find that the Defendant had joined the RICO conspiracy and agreed, prior to [date], that a RICO conspiracy member would engage in conduct that would constitute the offense of [describe offense] after [date], you can only find the Defendant guilty of this offense if you unanimously determine, beyond a reasonable doubt, that:

- First: The Defendant continued to engage in the agreement that a RICO conspiracy member would engage in conduct that would constitute [the offense] after [date], and
- Second: An overt act was knowingly committed after [date] to further the purposes of the conspiracy.

**Conclusion**

Mr. Fariz respectfully submits the foregoing proposed jury instruction to address continuing offenses.

Respectfully submitted,

R. FLETCHER PEACOCK  
FEDERAL PUBLIC DEFENDER

/s/ M. Allison Guagliardo  
M. Allison Guagliardo  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4th day of October 2005, a true and correct copy of the foregoing has been furnished by CM/ECF, to Walter Furr, Assistant United States Attorney; Terry Zitek, Assistant United States Attorney; Cherie L. Krigsman, Trial Attorney, U.S. Department of Justice; Alexis L. Collins, Trial Attorney, U.S. Department of Justice; William Moffitt and Linda Moreno, counsel for Sami Amin Al-Arian; Bruce Howie, counsel for Ghassan Ballut; and to Stephen N. Bernstein, counsel for Sameeh Hammoudeh.

/s/ M. Allison Guagliardo  
M. Allison Guagliardo  
Assistant Federal Public Defender